

Approved by:

Date:

## Tax Department Administrative Rule 2014-1

**Date:** March 18, 2014

### **TAX BASE USED IN DETERMINING FOOD AND BEVERAGE TAX LIABILITY ON FOOD AND BEVERAGES SERVED AT FUNDRAISING EVENTS**

**TDAR-14-1.** The purpose of this rule is to clarify the tax base used in determining the amount of food and beverage tax due on food and beverages served at fundraising events that take place on Little River Band of Ottawa Indians Tribal and Trust lands (TTL).

Food and beverages served at fundraisers on TTL are sales of prepared food for immediate consumption and are subject to the Tribe's Food and Beverage Tax. (See Tax and Revenue Administration Ordinance #05-100-08 §5.02)

**Note:** If food is purchased from a Tribal entity caterer or other preparer and Tribal tax is paid on the purchase, then there is no further tax obligation on the food. The same tax treatment applies to alcoholic beverages if the charge for the beverage is included in the admission fee or donation and there is no further charge.

### **DETERMINATION OF TAX BASE**

The Little River Band of Ottawa Indians Tax Department will follow the Michigan Department of Treasury Revenue Administrative Bulletin 1991-19, *TAX BASE USED IN DETERMINING SALES TAX LIABILITY ON FOOD AND BEVERAGES SERVED AT FUNDRAISING EVENTS*, which is summarized below.

*"The tax base is the fair market value of the food sold. Usually the fair market value is the price of admission or a donation to attend the fundraiser or to purchase and prepare the food. If the admission or a donation exceeds the fair market value of the food or drink, fair market value may be determined by any reasonable method. When food is provided by a caterer, the sales tax is paid by the caterer, who may add the tax to the customer's bill. If the fundraising organization claims a sales tax exemption for resale on the caterer's purchase, then the food and beverage tax must be paid by the organization.*

*The sale of alcoholic beverages at a fundraiser is taxable. Sales tax is due on the total amount of the sales of beer, wine, and liquor. (See Department of Treasury Sales Tax Rule, 1979 AC, R 205.58.) If an organization pays sales tax on alcoholic beverages when purchased and provides the alcoholic beverages at the fundraiser at no additional charge to attendees, then no additional sales tax is owed. If at the fundraiser there is a charge for alcoholic beverages, sales tax is due on the total gross proceeds of the beverage sales (and a credit may be taken for any sales tax paid when the organization purchased the alcoholic beverages).*

### Examples

1. *Tickets are sold to a political fundraiser for \$25.00 per person. Meals provided at the fundraiser are purchased from a caterer at a charge to the organization of \$10.00 per plate, and the organization did not claim a sales tax exemption for resale. The sales tax base for the food is the \$10.00-per plate charged. The sales tax is paid by the caterer, who may add the tax to the bill or indicate on the bill "Michigan State sales tax included." The organization purchased beer and wine for the fundraiser and paid sales tax on their purchase. When the beer and wine are served at no additional charge to the attendees, no additional tax is due. If there is a "cash bar," the sales tax is due on the total gross proceeds of the beverage sales.*
2. *A church holds an "all-you-can-eat" pancake supper. Tickets are sold for \$5.00 per person for adults, \$2.75 per person for those under 12 years of age. Tax is due on the ticket price charged which approximates the fair market value of the food.*
3. *A booster club sells hot dogs, bags of chips, candy bars, and cans of soda at a school athletic event. Tax is due on the total gross proceeds from the sales of these items.*
4. *A nonprofit organization holds a fundraising fashion show where dessert and coffee will be served. Tickets are available for \$15.00. Sales tax will be due on the fair market value of any food or drink served. The fair market value may be determined by quotations from caterers or other reasonable method.*
5. *A boy scout troop sells candy bars door-to-door. These sales are not food for immediate consumption and are not subject to tax as the candy bars are not sold at an event or public facility or place."*

### **REMITTANCE OF FOOD AND BEVERAGE TAX**

There are alternate methods for remitting Tribal tax on fundraising sales;

1. Groups currently holding a Tribal Tax License may remit the tax on their current Tribal tax return.
2. Groups conducting a one-time fundraising event may register for a Tribal Concessionaire's License. A Concessionaires Tribal Tax Registration form (TD812) may be obtained by contacting the LRBOI Tax Office or online at <https://www.lrboi-nsn.gov/index.php/membership-services/tax-office>.

### **FOR ADDITIONAL INFORMATION:**

Questions can be addressed by calling (231) 398-6874, or writing:

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